Excise and GST/HST News

No. 72 Spring 2009

Table of Contents

Bill C-10 receives Royal Assent 1
Residential care facilities and the election to adjust net tax for the self-supply of a residential complex. 1
Tsawwassen First Nation *Final Agreement Act* comes into effect 3
Reminder – tourism industry 3
Prescribed rates of interest 4
What's new in publications 4
Enquiries 6

Bill C-10 receives Royal Assent

Bill C-10, the *Budget Implementation Act, 2009*, received Royal Assent on March 12, 2009 and is now referred to as Statutes of Canada, 2009, c. 2.

This Act includes amendments to the *Excise Act, 2001* and the *Excise Tax Act* to implement measures to facilitate greater use of the CRA's Business Number (BN) by other levels of government (BN Partners). Effective March 12, 2009, the CRA will be broadening the BN-related information that may be shared with BN partners, expanding the type of government entities that qualify as BN Partners, and allowing these partners to use the BN in connection with programs and services they provide. By doing so, the CRA aims to simultaneously reduce the burden of paper work and duplication of effort for businesses and government alike.

However, this legislation does not include the proposed measures (previously announced in *Budget 2009*), which would simplify the operation of the GST/HST for persons in the direct selling industry (i.e., network sellers) who sell their products directly to consumers through a network of commission-based sales representatives. A summary of these measures is provided in the Winter 2008-2009 edition of the *Excise and GST/HST News, No. 71*. The government plans to include these measures in subsequent legislation.

Residential care facilities and the election to adjust net tax for the self-supply of a residential complex

The election to adjust net tax for the self-supply of a residential complex allows a builder-operator of a residential care facility to adjust its net tax where the builder-operator did not account for an amount of GST/HST in respect of a self-supply of a residential complex or addition on or before February 26, 2008. A builder-operator may want to file this election, for example, to claim input tax credits (ITCs) and a new residential rental property rebate that may not have been available previously, or to make a future sale of the residential complex exempt from GST/HST.

What is a residential care facility?

The CRA considers a "residential care facility" to include any facility at which an individual intends to reside for an indefinite period and at which the individual receives additional property and services together with a room or

My Business Account: Check account balances and transactions, view correspondence items, stop mail out of account statements, authorize representatives, and more. Visit www.cra.gc.ca/mybusinessaccount.

GST/HST NETFILE: Faster processing and refunds, immediate confirmation of receipt, and no postal costs. Visit www.cra.gc.ca/gsthst-netfile.

La version française de la présente publication est intitulée *Nouvelles sur l'accise et la TPS/TVH*.

Canada Revenue Agency | Agence du revenu du Canada

Canada

suite. Such additional property and services may include meals, housekeeping, laundry, security monitoring, nutritional and nursing care services, scheduled transportation, social, recreational, educational and religious services, personal supervision, personal care, and assistance with the activities of daily living.

Residential care facilities include facilities that are generically described as care homes, personal care homes, congregate housing, assisted living residences, seniors' residences, retirement residences, nursing homes and homes for the aged. A residential care facility does not include facilities such as a hospital or mental health facility.

Self-supply

If you are a builder-operator of a residential care facility, you are generally considered to have made a self-supply under the new rules if you build or substantially renovate the facility and you give possession or use of a unit in the facility under a lease for its long-term residential use by an individual.

Prior to February 27, 2008, the self-supply rules may not have applied to facilities that provide nursing or personal care services and that included a room or suite. Under amendments to the *Excise Tax Act*, the new self-supply rules apply to builder-operators who are required to self-supply after February 26, 2008. The new rules also apply where a builder-operator has accounted for tax on a self-supply that occurred before February 27, 2008.

In addition, a builder-operator who did not account for tax on a self-supply that occurred before February 27, 2008 may choose to self-supply by filing an election to adjust its net tax for any reporting period that ends before February 27, 2010, provided the election is filed with the return by the due date of the return for the reporting period.

Are you eligible to make this election?

You can make this election if you are not a co-operative housing corporation and you meet **all** of the following conditions:

- you are the builder of a residential complex or an addition;
- you are eligible for a new residential rental property rebate for one or more residential units in the residential complex or addition, or would be eligible if the time limit for claiming the rebate did not apply and the fair market value threshold for the unit, complex or addition did not apply;
- you are not a builder who sells a residential unit and leases the land portion of the complex or addition;
- you would have been deemed to have made a self-supply of the residential complex or addition at a time before February 27, 2008, as a result of leasing the complex or a unit in the complex or addition, had the new self-supply rules been in effect at the time;
- you did not account for tax on a self-supply of the residential complex or addition in a return filed or required to be filed before February 27, 2008;
- you did not make a supply by way of sale of the residential complex or addition to another person before February 27, 2008;
- you have not made another election to adjust the net tax for the self-supply of this residential complex or addition; and
- the reporting period to which this election applies ends before February 27, 2010.

How do I make an election?

Complete Form GST119, *GST/HST Election to Adjust Net Tax for the Self-Supply of a Residential Complex*, and file it with your return for the reporting period to which the election applies. This election must be filed on or before the day you are required to file your GST/HST return for the reporting period to which this election applies and for which you are claiming the net tax adjustment. This election cannot be revoked.

GST/HST Info sheet GI-050, *Residential Care Facilities and the GST/HST Election to Adjust Net Tax for the Self-Supply of a Residential Complex* has recently been published. This info sheet explains the new election and provides instructions on how to complete Form GST119 as it relates to builder-operators of residential care facilities.

More information is also available in GST/HST Info Sheet GI-045, *Residential Care Facilities and Proposed Changes in the 2008 Budget.*

Tsawwassen First Nation Final Agreement Act comes into effect

As of April 3, 2009, the Tsawwassen First Nation, British Columbia, became self-governing and ceased to be an Indian band as defined in the *Indian Act.*

Also effective April 3, 2009, the Tsawwassen First Nation and its entities are no longer entitled to tax relief as described in GST/HST Technical Information Bulletin B-039R, *GST/HST Administrative Policy – Application of the GST/HST to Indians* and are required to pay the GST/HST when acquiring taxable supplies of goods and services.

GST Self-Government Refund

A tax treatment agreement, effective April 3, 2009, provides for a GST self-government refund. This refund is available for 100% of the GST or FNGST paid on goods and services acquired by the Tsawwassen Government and its eligible entities provided that input tax credits are not available and the other eligibility requirements are met.

The Tsawwassen Government and its eligible entities may claim the refund using Form GST66, *GST/HST Public Service Bodies' Rebate and GST Self-Government Refund.* The claim must be filed within four years after the tax was paid.

Tsawwassen individuals

Also effective April 3, 2009, Tsawwassen lands ceased to be reserve lands. However, Tsawwassen Indian individuals are still entitled to tax relief as the Final Agreement provides for a transitional exemption from taxation to Indian individuals on former Tsawwassen reserve lands. For GST/HST purposes, the transitional exemption expires on April 30, 2017.

Reminder – tourism industry

Summer tourist season is upon us and the CRA would like to remind you to update your publications and Web pages to reflect current information regarding the Foreign Convention and Tour Incentive Program (FCTIP).

The FCTIP was implemented effective April 1, 2007. Under the FCTIP, non-residents continue to be eligible for a rebate of up to 50% of the GST/HST paid on eligible tour packages and non-resident tour operators continue to be eligible for a rebate of the GST/HST paid on accommodation that they resell as part of an eligible tour package. You can find specific information on the FCTIP in GST/HST Info Sheets GI-026 to GI-033, GI-044, and GI-046 available on the CRA Web site.

Since the FCTIP does not provide a rebate of GST/HST paid on goods exported from Canada by non-resident consumers, please ensure that the brochures and any other publications available to consumers **do not** indicate that there is a GST/HST rebate on these goods.

Under the transitional rules for the Visitor Rebate Program, certain accommodation is eligible for a rebate. The accommodation must have been sold to a non-resident under an agreement in writing entered into before September 25, 2006 and the accommodation must be made available to a non-resident individual before April 2009. Please see GST/HST Info Sheet GI-026, *Visitor Rebate Program – Non-Residents Purchasing Accommodation: When is the Rebate Still Available?* for more information.

Prescribed rates of interest

The prescribed annual rate of interest in effect from April 1, 2009 to June 30, 2009, on overdue amounts payable to the Minister is 5%. The prescribed annual rate of interest on amounts owed by the Minister (i.e., rebates or refunds) is 3%. These rates are applicable to income tax, excise tax, the softwood lumber products export charge, GST/HST and the air travellers security charge (ATSC) and excise duty on wine, spirits and tobacco.

The prescribed annual rate of interest respecting excise duty on beer, on overdue amounts payable for the indicated period, is set at 3%. Refund interest rates are not applicable for amounts owed by the Minister (i.e., rebates or refunds) for excise duty that is in relation to beer.

	Income Tax, Excise Tax, Softwood Lumber Products Export Charge, GST/HST and ATSC, Excise Duty (wine, spirits, tobacco)		Excise Duty (beer)
Period	Refund Interest	Arrears and Instalment Interest	Arrears Interest
2009			
April 1 – June 30	3%	5%	3%
January 1 – March 31	4%	6%	4%
2008			
October 1 – December 31	5%	7%	5%
July 1 – September 30	5%	7%	5%
April 1 – June 30	6%	8%	6%

Prescribed interest rates for previous years are available on the CRA Web site at www.cra.gc.ca/interestrates.

What's new in publications

The following is a list of new or revised excise and GST/HST forms and publications.

GST/HST notices

Notice242 *Notice of Change, GST/HST Memorandum 4-3, Basic Groceries*
Notice243 *Draft GST/HST policy statement, Fertilizer and/or Pesticide Supplied Together with an Application Service*

GST/HST forms

GST21 *Election or Revocation of an Election to Have the Joint Venture Operator Account for GST/HST*
GST106 *Schedule 2 - Information on Claims Paid or Credited for Foreign Conventions and Tour Packages*
GST114 *Bond for Non-Resident Person without a Permanent Business Establishment in Canada*
GST190 *GST/HST New Housing Rebate Application*
GST191 *GST/HST New Housing Rebate Application For Owner-Built Houses*
GST191-WS *Construction Summary Worksheet*
GST192 *GST/HST Transitional Rebate Application for Builders of New Housing on Leased Land*
GST193 *GST/HST Transitional Rebate Application for Purchasers of New Housing*

GST367	*Endorsement to the Bond for Non-Resident person without a Permanent Business Establishment in Canada*
E680	*Notice of Objection (Excise Act, 2001)*

GST/HST guides

RC4028	*GST/HST New Housing Rebate*
RC4033	*General Application for GST/HST Rebates*
RC4049	*GST/HST Information for Municipalities*
RC4081	*GST/HST Information for Non-Profit Organizations*
RC4346	*GST/HST Administration Checklist*
RC4347	*GST/HST Administration Guide*

GST/HST memoranda

25-2	*Designation of Hospital Authorities*

Excise duty forms

B243	*Excise Tax Return – Insured*

Excise duty notices

EDBN13	*K50B Filing and Payment Schedules for Brewers (2009-2010)*

Softwood lumber products export charge notices

SWLN4	*Security Requirements for Non-Resident Persons and Persons Without a Permanent Establishment in Canada (revised)*

Softwood lumber products export charge forms

B275	*Softwood Lumber Products Export Charge Return*
RC45	*Notice of Objection (Softwood Lumber Products Export Charge Act, 2006)*

All GST/HST, Excise Duty, and Excise Taxes and Special Levies publications can be found on the CRA Web site at www.cra.gc.ca/gsthsttech.

Enquiries

For online access to account balances, transactions and more for your GST/HST, softwood lumber products export charge, air travellers security charge as well as excise taxes and duty accounts, visit www.cra.gc.ca/mybusinessaccount.

For general information and to make enquiries regarding your account (except for softwood lumber products export charge accounts), call Business Enquiries at 1-800-959-5525.

For enquiries regarding your softwood lumber products export charge account, call 1-800-935-0313.

To make enquiries regarding the status of specific GST/HST domestic rebate claims, call 1-800-565-9353.

For GST/HST technical enquiries call GST/HST Rulings at 1-800-959-8287.

Forms and publications
To access forms and publications online visit www.cra.gc.ca/orderforms.
To order forms and publications by telephone call 1-800-959-2221.

Are you a GST/HST registrant located in Quebec?
To make an enquiry or obtain information on the GST/HST, contact Revenu Québec at 1-800-567-4692 or visit their Web site at www.revenu.gouv.qc.ca.

The *Excise and GST/HST News* is published quarterly and highlights recent developments in the administration of the goods and services tax (GST) and harmonized sales tax (HST), First Nations goods and services tax (FNGST) and First Nations tax (FNT), softwood lumber products export charge, air travellers security charge (ATSC) as well as excise taxes and duties. If you would like to receive a link to each new edition of the *Excise and GST/HST News* as it is published, subscribe to the electronic mailing list.

This publication is provided for information purposes only and does not replace the law, either enacted or proposed. Please note that any commentary in this newsletter regarding proposed measures should not be taken as a statement by the CRA that such measures will in fact be enacted into the law in their current form. Comments or suggestions about the newsletter should be sent to the Editor, *Excise and GST/HST News*, Legislative Policy and Regulatory Affairs Branch, CRA, Ottawa, ON K1A 0L5.